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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Vernon Harris,)	No. CV-02-494-PHX-SMM
)	
Plaintiff,)	ORDER
)	
v.)	
)	
Superior Court of the State of Arizona in))	
and for the County of Maricopa; the))	
Supreme Court of Arizona; and the State))	
of Arizona,)	
)	
Defendants.)	

Pending before the Court are Defendants' Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 336) and Motion for Summary Disposition Re: Motion for Attorneys' Fees (Dkt. 352). Also pending are Plaintiff's Motion for Stay and Bifurcation of Proceedings Regarding Defendants' Attorneys' Fees Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points and Authorities in Support of Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 359) and Motion to Expedite Decision on Motion for Stay and Bifurcation of Defendants' Attorneys' Fees Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points and Authorities in Support of Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 360).

Defendants request an award of \$302,081.15 in attorneys' fees and expenses (and \$21,279.22 in related non-taxable costs), pursuant to Ariz.Rev.Stat. § 12-341.01(a), which permits a court to award reasonable attorneys' fees to a prevailing party in any contract action,

1 and 42 U.S.C. § 1988, 42 U.S.C. § 2000e-5(k), and Ariz.Rev.Stat. § 41-1481(J), which
2 permit a court to award attorneys' fees to a prevailing party for claims that are frivolous,
3 unreasonable, and without foundation. Because the Court granted summary judgment in
4 favor of Defendants on each of Plaintiff's ten claims (Dkt. 332), among other reasons,
5 Defendants argue they are entitled to an award of attorneys' fees and related non-taxable
6 costs. (Dkts. 336, 352.)

7 After Defendants moved for attorneys' fees, Plaintiff appealed the Court's Order
8 granting summary judgment to the United States Court of Appeals for the Ninth Circuit.
9 (Dkt. 342.)

10 In light of Plaintiff's appeal, the Court finds that it would be imprudent to resolve
11 Defendants' pending motions pertaining to an award of attorneys' fees and related non-
12 taxable costs. Consequently, the Court will deny Defendants' Motion for Attorneys' Fees
13 and Related Non-Taxable Costs (dkt. 336) without prejudice and with leave to re-file upon
14 the Ninth Circuit's resolution of Plaintiff's appeal.

15 Similarly, in light of Plaintiff's appeal, the Court finds that it would be imprudent to
16 resolve Plaintiff's pending motions pertaining to the method by which the attorneys' fees
17 issue will be resolved. Consequently, the Court will deny Plaintiff's Motion for Stay and
18 Bifurcation of Proceedings Regarding Defendants' Attorneys' Fees Request and Motion for
19 Additional Time to Respond to Defendants' Memorandum of Points and Authorities in
20 Support of Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 359).

21 Accordingly,

22 **IT IS HEREBY ORDERED DENYING WITHOUT PREJUDICE** Defendants'
23 Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 336). Defendants may re-
24 file their Motion for Attorneys' Fees upon resolution of Plaintiff's appeal by the United
25 States Court of Appeals for the Ninth Circuit.

26 **IT IS FURTHER ORDERED DENYING AS MOOT** Defendants' Motion for
27 Summary Disposition Re: Motion for Attorneys' Fees. (Dkt. 352.)
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1 **IT IS FURTHER ORDERED DENYING WITHOUT PREJUDICE** Plaintiff's
2 Motion for Stay and Bifurcation of Proceedings Regarding Defendants' Attorneys' Fees
3 Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points
4 and Authorities in Support of Motion for Attorneys Fees' and Related Non-Taxable Costs
5 (Dkt. 359.)

6 **IT IS FURTHER ORDERED DENYING AS MOOT** Plaintiff's Motion to
7 Expedite Decision on Motion for Stay and Bifurcation of Defendants' Attorneys' Fees
8 Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points
9 and Authorities in Support of Motion for Attorneys' Fees and Related Non-Taxable Costs.
10 (Dkt. 360.)

11 DATED this 19th day of October, 2006.

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16 Stephen M. McNamee
17 United States District Judge
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